ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Policy and Rules Concerning the Interstate, Interexchange Marketplace	)	CC Docket No. 96-61
	)	
Implementation of Section 254(g) of the Communications Act of 1934, as amended	)	

AT&T CORP. PETITION FOR LIMITED RECONSIDERATION AND CLARIFICATION

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SUMMARY

No carrier more than AT&T has actively supported the Commission's efforts to promote competition and reduce unnecessary regulation, consistent with the Communications Act. Nothing in the Commission's Second Report and Order ("Detariffing Order"), however, alters AT&T's view that mandatory, complete detariffing is neither within the Commission's authority under the Communications Act nor consistent with the public interest. Indeed, the record in this proceeding overwhelmingly shows -- and the Detariffing Order does not dispute -- that most of the asserted benefits of mandatory detariffing could at least equally be achieved by permissive detariffing, with none of the associated costs. And neither of the two rationales articulated in the Detariffing Order for selecting mandatory over permissive detariffing can withstand even modest scrutiny.

Although AT&T would therefore support replacement of mandatory detariffing in its entirety with permissive detariffing, AT&T here seeks only limited reconsideration and clarification. Specifically, AT&T requests that the Commission make modest adjustments to tailor its detariffing policy to one of the unique features of the telecommunications industry: the provision of service to customers before the vendor can collect payment or ensure that the customer is bound by the carrier's rates and other terms. Thus, AT&T's

petition requests that the Commission allow nondominant interexchange carriers to maintain permissive tariffs for up to the first 45 days of service to new customers, in order to allow such carriers to provide subscribers appropriate information about the "detariffed" rates, terms and conditions to which they have subscribed. In addition, the petition requests that nondominant interexchange carriers be allowed to maintain permissive tariffs for non-presubscribed calls. AT&T's petition demonstrates that allowing tariffs in these limited circumstances is necessary to protect the legitimate expectations of carriers and customers, and minimize the considerable litigation that the Detariffing Order may cause.

AT&T's petition also seeks relief, for a limited period, from the provisions of the Detariffing Order that would otherwise require nondominant interexchange carriers and their customers to use two separate vehicles (i.e., a contract and a tariff) for "mixed" long-term service arrangements containing domestic and international components. AT&T has thus far encountered considerable confusion and concern in its efforts to document what customers have negotiated and consider to be a single arrangement in separate instruments, subject to separate and different regulatory rules. Accordingly, to permit the market to adjust to the Commission's new policy, AT&T requests that, for the nine month transition period established in the Detariffing Order, the Commission adopt a permissive detariffing rule for mixed offerings that would give the parties the option of using a single instrument, either a contract or tariff, for both the domestic and international components of the offering. Alternatively, the Commission should extend to the domestic components of mixed offerings the same nine month transition period it established for domestic "mass market" offerings.

Finally, AT&T requests that the Commission clarify the statements in the Detariffing Order about the applicability of state law to interstate telecommunications services. AT&T believes that the references in the order to state contract and consumer protection laws were not intended to -- and could not in any event -- authorize challenges under these or other state laws to the reasonableness of particular interstate rates and terms that are -- and remain after the Detariffing Order -- subject to Sections 201 and 202 of the Communications Act. To prevent unnecessary litigation and attempts to impose on carriers the inconsistent obligations that the Act seeks to foreclose, the

Commission should clarify that the lawfulness of rates, terms and conditions for interstate telecommunications services remain governed exclusively by the Communications Act.

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In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace Implementation of Section 254(g) of the Communications Act of 1934, as amended	)	CC Docket No. 96-61

AT&T CORP. PETITION FOR LIMITED RECONSIDERATION AND CLARIFICATION

Pursuant to Section 1.429(a) of the Commission's Rules, 47 C.F.R. § 1.429(a), AT&T Corp. ("AT&T") respectfully petitions the Commission to reconsider the provisions in the Second Report and Order ("Detariffing Order") in this docket that purport to prohibit nondominant carriers from filing tariffs for domestic interstate interexchange common carrier services, and establish temporary and limited exceptions to the Commission's new policy of mandatory "complete detariffing."[1] Granting AT&T's petition is necessary to

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[1] Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 12934, as amended, CC Docket No. 96-61, Second Report and Order, FCC 96-424, released October 31, 1996.

protect the reasonable commercial expectations of carriers and their customers in the limited circumstances to which the proposed exceptions would apply, and to avoid the imposition of significant and wholly unnecessary costs on customers and carriers. Granting the petition, moreover, would not fundamentally alter the Commission's new policy.

By this petition, AT&T also requests that the Commission clarify certain statements in the Detariffing Order regarding the applicability of state law to the interstate telecommunications services subject to the Communications Act. In particular, AT&T seeks clarification that nothing in the Detariffing Order was intended to suggest that state common law or statutes govern the substantive validity or reasonableness of the rates, terms and conditions applicable to interstate services. Absent such clarification, the Detariffing Order may be misconstrued as displacing the Communications Act as the exclusive source of authority on this subject, contrary to the Commission's intent and settled law.

INTRODUCTION

In the Notice of Proposed Rulemaking in this docket, the Commission proposed to exercise its authority under Section 10 of the Telecommunications Act of 1996 to forbear from enforcing Section 203 of the Act, which requires carriers to file with the Commission schedules of charges (and classifications, practices and regulations affecting such charges).[2] The Commission requested comment (Notice, FCC Rcd. at 7161-62) on whether such forbearance should be "permissive," meaning that carriers would be permitted but not required to file tariffs, or "mandatory," meaning that carriers would be prohibited from filing tariffs.

In their comments, a wide array of parties, including AT&T, other carriers, consumer groups, and NARUC, supported permissive detariffing, and vigorously opposed mandatory detariffing. These parties demonstrated that mandatory detariffing would impose significant costs on carriers and their customers, with no countervailing benefits that could not equally be achieved through permissive detariffing. The record shows that mandatory detariffing, especially as applied to services offered to residential and small business customers, would impose enormous transaction costs on carriers and their customers, and could preclude "casual" (i.e., non-presubscribed) calling altogether.[3] For this reason, few

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[2] Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 12934, as amended, CC Docket No. 96-61, Notice of Proposed Rulemaking, 11 FCC Rcd. 7141, released March 25, 1996 ("Notice")

[3] See AT&T Reply Comments, CC Docket No. 96-61, filed May 24, 1996, at 3 (citing comments of other parties).

parties supported the application of mandatory detariffing to these services.

Notwithstanding this record, the Detariffing Order adopted a policy of "complete" (i.e., mandatory) detariffing. The Commission stated (¶ 55) that such a policy would prevent carriers from invoking the filed rate doctrine, and protect consumers by allowing them "to pursue remedies under state consumer protection and contract laws." The Commission also found that mandatory detariffing would likewise "preserv[e] the reasonable commercial expectations" of carriers (id.).

In this regard, the Commission rejected claims that mandatory detariffing would make it difficult and costly for carriers to establish binding arrangements for their services (¶ 57). It observed that tariffs are not "the only feasible way for carriers to establish legal relationships with their customers" (id.); that nondominant carriers would "not necessarily" need to negotiate contracts for service with each individual customer (id.); and that carriers could, for example, issue "short standard contracts" that contained basic rates, terms and conditions and "cross-referenced" other documents (id., n.167). The Commission also stated that it was "not persuaded that detariffing will make casual calling impossible," and that "carriers have other options to establish legal relationships" for such calling (id., ¶ 58). The Commission concluded (¶ 57) that in all events, "parties that oppose complete detariffing have not shown" that services offered by nondominant carriers "should be subject to a regulatory regime that is not available to firms that compete in other markets."

To effectuate its policy of complete detariffing, the Commission ordered (with certain exceptions not relevant to this petition) that nondominant carriers cancel their tariffs for domestic, interstate services as of nine months from the effective date of the Detariffing Order. In addition, the Commission prohibited nondominant carriers from filing new or revised tariffs for long-term service arrangements (¶ 90). But the Commission declined to decide in the Detariffing Order whether to extend its complete detariffing policy to international services. It therefore ordered carriers to continue to file tariffs for international services, and for the international components of any "mixed" tariff offering that includes both domestic and international services (¶ 91).

AT&T fully supports the Commission's objective of establishing market conditions for interexchange services "that more closely resemble an unregulated environment" (Detariffing Order, ¶ 52). Nothing in the Detariffing Order, however, alters AT&T's view that mandatory or complete detariffing is beyond the scope of the Commission's authority under Section 10, and contrary to the public interest. It is undisputed that most of the benefits of complete detariffing identified by the Commission would be fostered at least as well by permissive detariffing.[4] And neither of the two rationales that the Commission relied upon to support mandatory but not permissive detariffing can withstand even modest scrutiny.

First, no less than with mandatory detariffing, an order adopting permissive detariffing would preclude carriers from making unilateral changes to agreements by claiming that the filed rate is the "only lawful rate."[5] Second, the possibility that complete detariffing could make it more difficult for carriers to coordinate their pricing was refuted by virtually every commenter in this proceeding, and is completely foreclosed by the Commission's requirement (Detariffing Order, ¶¶ 59,85) that carriers make rate information available to "any

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[4] For example, to the extent tariffs create inefficiencies by "reducing or taking away carriers' ability to make rapid efficient responses to changes in demand and cost" (Detariffing Order, ¶ 53), "imposing costs on carriers that attempt to make new offerings" (id.), or "preventing consumers from seeking out or obtaining service arrangements specifically tailored to their needs (id.), carriers will forego uneconomic tariffing under a permissive regime as surely as under a mandatory one. No carrier will voluntarily raise its own costs or lose customers to competitors.

[5] See AT&T Comments at 20-22; AT&T Reply Comments at 4; AT&T Ex Parte Presentation, "Permissive Detariffing and the Filed Rate Doctrine," July 17, 1996.

member of the public" so as to make it "eas[y] to compare carriers' service offerings."

Because mandatory detariffing produces no public benefits that could not equally be achieved through permissive detariffing, its adoption would not be "in the public interest" if it imposed any additional costs on carriers and customers -- as the Commission concedes it will(¶ 57). Further, AT&T believes the Commission has seriously underestimated the litigation and other expenses that carriers will incur to establish and enforce the rates, terms and conditions for their detariffed services. The industry has never operated without the ability to file tariffs, and there will be inevitable disputes about what a carrier must do in order to create, communicate and apply its rates and terms.[6] The uncertainty and increased costs will be significantly compounded if, as the language in the order can be read to suggest, these questions are to be resolved under the laws of 50 different states.

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[6] Indeed, the brief discussion in the Detariffing Order of the "other feasible means" of establishing legal relationships is often qualified, reflecting the Commission's uncertainty about the accuracy of its own speculation. For example, the Order (¶ 57) states that carriers may not "necessarily" need to negotiate contracts with individual customers, and that by completing use of a telecommunications service, a caller "may be deemed to have accepted a legal obligation to pay for services rendered" (id., ¶ 58; emphasis added).

Finally, the Commission's statement (¶ 57) that opponents of mandatory detariffing have not shown that the provision of interstate telecommunications services is sufficiently different from other businesses to justify retention of a tariffing option is without merit. AT&T is not aware of, nor has the Commission identified, any other business in which the vendor provides goods or services to its customers before it collects payment from the customer, or can at least take steps necessary to ensure that the customer is legally bound by its rates, terms and conditions of sale.[7] Yet that is precisely the behavior of vendors of telecommunications services -- a behavior that tariffs have made possible. It is the Commission's failure to consider this fundamental characteristic of the telecommunications market that most severely threatens the legitimate commercial expectations of carriers and their customers.

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7 Indeed, to the extent that the provision of interstate telecommunications services is "like" any other industry, the proper analogy is to the electric, gas and local telephone industries -- all of which operate under tariffs.

I. THE COMMISSION SHOULD RECONSIDER THE DETARIFFING ORDER AND ALLOW CARRIERS TO FILE TARIFFS THAT WOULD APPLY TO CASUAL CALLING, AND TO THE FIRST 45 DAYS OF SERVICE PROVIDED TO NEW CUSTOMERS.

Although AT&T has substantial concerns about the lawfulness and merits of mandatory detariffing, and would thus support reconsideration of the complete detariffing policy in its entirety, AT&T does not here seek such reconsideration.[8] Rather, AT&T requests that the Commission reconsider its policy to permit (but not require) carriers to file tariffs for (i) casual calling, and (ii) calls during the initial 45 days of a service arrangement with residential and small business customers.[9] Retaining a tariffing option in these circumstances will allow carriers to continue to meet customers' expectations to receive service without advance payment or delay, while also protecting carriers' legitimate commercial expectations.

The Commission's statement that carriers have "options other than tariffs" assumes that carriers will have an opportunity to establish a legal relationship with

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8 In this regard, AT&T supports MCI's recent motion to the extent it seeks to stay the provisions of the Detariffing Order that purport to prohibit the filing of tariffs. See MCI Motion for Stay Pending Judicial Review, CC Docket No. 96-61, filed December 18, 1996.

9 By filing this petition for limited reconsideration, AT&T does not waive its rights to challenge other aspects of the Detariffing Order.

the customer before the customer uses the carrier's service. For example, the Commission suggests that carriers may issue "short standard contracts" to customers who presubscribe to their services, or simply provide information about terms to casual callers and then "deem" use of the service by the customer to be acceptance of those terms. Each of these "options" necessarily assumes that carriers will be able to take particular steps before the customer uses the service.

But such an assumption is often unfounded, particularly for casual calling and the initial period of service to presubscribed customers. Carriers may not learn of a customer's non-presubscribed usage of its service until the customer makes the call (e.g., operator and directory assistance services), and sometimes not until after the call is completed (e.g., dial-around calls, and calls charged to third-party credit cards). This means that there is no practical opportunity to provide information in a manner and in sufficient quantity such that all customers would agree that usage of the service constitutes acceptance of the carrier's terms.[10] At a minimum, the potential for disputes is enormous.

[10] The provision of such information through a recording akin to what is done with "900 services" is not a solution to this problem. For 900 services, the furnishing of a recording is the duty of the Information Services Provider, whose charges are paid by its customers, not the carrier. In addition, the

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Similar problems exist even for presubscribed customers, at least during the initial period of service. In many cases, customers' use of AT&T's service begins before AT&T can provide them with a contract, standard or otherwise -- and often even before AT&T is aware of their existence and identity (as with casual calling). That is the case when a customer makes direct contact with a local exchange carrier ("LEC") to designate AT&T as its primary interexchange carrier ("PIC"). When that happens, it takes some LECs up to sixty days to notify AT&T of the PIC designation. Because of the enormous churn rate in the industry, AT&T processes in excess of thirty million customer requests to PIC to AT&T annually, or an average of more than 600,000 requests per week. Thus, even after AT&T receives notice that it has been designated as a customer's PIC, it can take up to an additional two weeks to mail information to the customer.[11] Of course, it

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number of payphone, card, dial-around and other non-presubscribed calls greatly exceeds the number of 900 calls, and thus the cost incurred and burden imposed on the network would be correspondingly greater. Finally, apart from issues of cost and burden on the network, customers in "casual calling" situations (e.g., a dial-around call in a network emergency, a collect call in an airport) are not likely to want to listen to recorded messages prior to having their calls completed.

[11] Even where AT&T or its marketing agents learn directly from the customer of its decision to PIC to AT&T, it takes time to process the request and mail information

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takes additional time for the information to reach the customer. In some cases, moreover, AT&T receives the wrong address for the customer, and the information is returned unopened, requiring AT&T to identify the correct address and then make another mailing.[12]

Particularly in the situations described above, where carriers do not have a practical opportunity to do even the minimum that the Commission suggests may be necessary to establish a legal relationship with the customer before the commencement of service, tariffs are the only certain mechanism to ensure that carriers' reasonable commercial expectations are protected without resort to frequent and costly litigation.[13] Allowing

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to the customer. Particularly given the volume of requests it receives, AT&T is unable to provide written information to the customer at or prior to the commencement of service.

12 For these reasons, AT&T requests that the Commission define the period to which tariffs will apply as "up to 45 days" after the carrier is notified that the customer has designated it as its PIC. Alternatively, the Commission can provide that the tariff shall apply until such time as the customer receives term information from the carrier, but in no event longer than 45 days. If the Commission adopted this alternative, it could also require that the term information provided to the customer include a statement that the terms and conditions of the presubscribed service included therein supersede any tariff.

13 In this regard, there is nothing at all improper or even suspect about the inclusion of limitation of liability clauses in such tariffs. The Commission has

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tariffs in these limited situations cannot adversely affect consumers. As the Detariffing Order itself recognizes, market forces will ensure that rates, terms and conditions that are filed will be just, reasonable and nondiscriminatory, and the complaint process is available as an additional safeguard.

II. THE COMMISSION SHOULD RECONSIDER THE RULES ADOPTED IN THE DETARIFFING ORDER REGARDING "MIXED" OFFERINGS.

In the Notice (¶ 33), the Commission requested comment on how its detariffing policy should be applied to "mixed" offerings that contain both domestic and international components. AT&T and other commenters argued that to avoid unnecessary disruption in the market, the Commission should apply the same rules to all

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consistently held such provisions to "strike a reasonable balance between the rights of aggrieved customers and the public interest in the provision of telephone service at the lowest possible cost." AT&T, Proposed Revisions of Tariff F.C.C. No. 260, 76 F.C.C.2d 195, 198 (1980); (id. at 199)(explaining that "all telephone ratepayers would bear the increased cost of litigation and settlement . . . were we to expand substantially telephone company liability," and that it would be "neither desirable nor in the public interest" to thereby "benefit only a relatively small number of users" at "their expense"). Prohibiting tariffs could jeopardize carriers' ability to limit their liability in the situations described above, contrary to "the public interest." 76 F.C.C.2d at 199.

components of such offerings.[14] The Commission nevertheless declined (¶ 98) to include international components of mixed offerings within its complete detariffing policy.[15] The Commission also decided that as of the effective date of the Detariffing Order, it would no longer permit carriers to file new tariffs or revisions to existing tariffs for "long term service arrangements," in order "to limit the ability of carriers . . . [to] invok[e] the filed rate doctrine" (¶ 90).

The effect of these decisions is to immediately require carriers and customers to use two different vehicles to implement what the parties have negotiated as and consider to be a single, integrated arrangement. At the time the Detariffing Order was released, AT&T had in the "pipeline" more than 2000 individual contract tariffs containing both domestic and international capabilities. In those cases, AT&T and its customers were negotiating,

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[14] AT&T Comments, CC Docket No. 96-61, filed April 25, 1996, at 7 n.4; Letter, R. G. Salemme (AT&T) to R. Keeney (FCC), October 17, 1996, at 3 ("the Commission should adopt a permissive detariffing rule for offerings that include both domestic and international services").

[15] To ensure that the same tariffing rules apply to the domestic and international components of mixed tariff offerings, the Commission had a variety of options, including complete detariffing of all such offerings, and permissive detariffing. Although the Detariffing Order rejects the former, it never considers the latter.

drafting and preparing to file a single contract tariff to cover the entire arrangement. The Detariffing Order, however, subjects carriers and customers to the cumbersome process of implementing integrated offerings through separate arrangements -- tariffs for the international components, and contracts for the domestic components.

Customer feedback to AT&T confirms that there has been significant confusion created by the need for both a tariff and a contract for a single deal, and about the relationship between the two instruments that are intended to deliver an integrated network solution. AT&T is concerned -- and its experience since the release of the Detariffing Order confirms -- that the provisions of the Order applicable to mixed long term service arrangements will not merely create additional paperwork, but will complicate negotiations, delay the implementation of pending deals, and create customer uncertainty. Accordingly, to permit the market to adjust to the new policy, AT&T requests that for the nine month transition period established in the Detariffing Order, the Commission adopt a permissive detariffing rule for mixed offerings, to give carriers and customers the option of using a single instrument, either a contract or a tariff, for their entire arrangement.

Alternatively, the Commission should extend to the domestic components of mixed long-term service arrangements the nine month transition period that is now to apply to "mass market" domestic offerings. This alternative would at least preserve for new offerings the option of including in a tariff both the domestic and international components, consistent with customer expectations and industry practice prior to the release of the Detariffing Order. This alternative cannot harm consumers. Any theoretical possibility that carriers could invoke the filed-rate doctrine to make unilateral alterations to a mixed offering is a function not of the transition period, but of the Commission's decision to continue to require tariffs for the international components.[16]

In sum, whatever benefits may result from a regime in which carriers and customers are required to split apart integrated deals into separate instruments subject to separate rules, those benefits are outweighed by the disruption and confusion caused by the immediate application of that regime to pending arrangements. Accordingly, AT&T requests the Commission to adopt on

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[16] In all events, although wholly unnecessary in AT&T's view, the Commission could address any lingering concern about the possibility of unilateral changes to contracts through tariff filings by conditioning its acceptance of tariffs for the domestic components of mixed long-term service arrangements on the provision by the carrier of a certification of customer consent to any tariff filing that alters a term plan.

reconsideration one of the two alternatives proposed above.

III. THE COMMISSION SHOULD CLARIFY THAT NEITHER THE EFFECT NOR INTENT OF THE DETARIFFING ORDER IS TO SUBJECT THE RATES, TERMS AND CONDITIONS OF INTERSTATE TELECOMMUNICATIONS SERVICES TO STATE LAW.

In the Notice, the Commission tentatively concluded that tariffs are no longer necessary because market forces, together with its complaint process, are sufficient to protect consumers from unjust and unreasonable rates, terms and conditions. In adopting this tentative conclusion, the Detariffing Order (¶ 42) also notes that as a result of complete detariffing, consumers "will also be able to pursue remedies under state consumer protection and contract laws."

AT&T believes that the Commission did not intend to -- and could not in any event -- authorize challenges under state law to the reasonableness of particular interstate rates and terms that are subject to Sections 201 and 202 of the Communications Act. Indeed, another statement in the Detariffing Order (¶ 38) mentions state consumer protection and contract law specifically in the context of the filed rate doctrine and contract formation. Nevertheless, AT&T is concerned that the Detariffing Order may be misconstrued by others as authorizing or purporting to authorize challenges under state law to the substantive validity of the rates, terms and conditions for interstate services.[17] AT&T therefore requests that the Commission clarify its statements in the Detariffing Order to make it clear that the Commission retains exclusive jurisdiction under the Communications Act to determine the reasonableness of the rates, terms and conditions for interstate services. Such clarificaiotn will prevent unnecessary litigation and the possible imposition of conflicting obligations on carriers relating to the same services.

Indeed, any other interpretation of the Detariffing Order is foreclosed by more than six decades

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[17] For example, although some states had enacted laws that purported to prohibit carriers from flowthrough of gross receipt taxes on customer bills, the Commission has expressly determined that AT&T's flowthrough of such taxes on interstate telecommunications services is a "reasonable method of preventing states from singling out telecommunications for taxation in order to transfer a portion of their tax burden to non-residents via rates for interstate telephone service." See Connecticut Office of Consumer Counsel v. AT&T Communications, 4 FCC Rcd. 8130, 8132 (1989), aff'd sub nom. Connecticut Office of Consumer Counsel v. FCC, 915 F.2d 75 (2d Cir. 1990), cert. denied, 499 U.S. 920(1991). See also Policy and Rules Concerning the Interstate Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended, 11 FCC Rcd. 9564, 9571 (1996)(reaffirming that carriers may "recover on a deaveraged basis state-specific gross receipts taxes applicable to interexchange services"). AT&T requests that the Commission specifically confirm that nothing in the Detariffing Order is intended to allow states to prohibit carriers from flowthrough of gross receipts taxes in accordance with Commission precedent.

of judicial decisions. These decisions hold that federal regulatory statutes establish uniform rules that leave no room for state law regarding the rates, terms and conditions for interstate services. As the courts have recognized, these statutes were designed to prevent the "evil" of "multiple control" over matters affecting critical industries in interstate commerce.[18] "A system under which each state could, through its courts, impose . . . on carriers its own version of reasonable service requirements could hardly be more at odds with the uniformity contemplated by Congress."[19] These principles have specifically been applied to the Communications Act.[20]

Further, the enactment of Section 10 granting the Commission forbearance authority, and the Commission's decision to exercise that authority by prohibiting carriers from filing tariffs, do not alter the preemptive

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18 Chicago & Northwestern Transportation Co. v. Kalo Brick and Tile Co., 450 U.S. 311 (1981).

19 Id.

20 Nordlicht v. New York Tel. Co., 799 F.2d 859(2d Cir. 1986); Ivy Broadcasting v. AT&T, 391 F.2d 486, 490-91 (2d Cir. 1968)("the federal statutory scheme for the regulation of interstate communications service indicates a congressional policy requiring that the duties and liabilities under contracts for the provision of such service be determined according to federal rules in order to assure uniformity of rates and services").